

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

In the Matter of:)	Amended Complaint No. 98-002
Dillingham Construction Corporation)	For
)	Administrative Civil Liability
for the property located at)	
903 Eighth Street)	
<u>Napa, Napa County</u>)	

YOU ARE HEREBY GIVEN NOTICE THAT:

1. You are alleged to have violated provisions of law and orders of the California Regional Water Quality Control Board, San Francisco Bay Region (Regional Board), for which the Regional Board may impose civil liability under Section 13350 (f)(1) of the California Water Code.
2. Unless waived, a hearing on this matter will be held before the Regional Board on July 15, 1998 in the Bay Area Rapid Transit (BART) Headquarters Building, First Floor Board Room, 800 Madison St., Oakland, California 94607. You or your representative(s) will have an opportunity to be heard and to contest the allegations in this complaint, and the imposition of civil liability by the Regional Board. An agenda showing the time set for the hearing will be mailed to you no less than ten days before the hearing date. You must submit any written evidence concerning the complaint to the Regional Board by July 10, 1998. Any written evidence submitted after July 10, 1998 may not be included in the record.
3. At the hearing the Regional Board will consider whether to affirm, reject, or modify the proposed administrative civil liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

ALLEGATIONS

4. Dillingham Construction Corporation (hereinafter referred to as "Dillingham") is alleged to have violated a Site Cleanup Requirements Order 96-114, adopted by the Regional Board on August 21, 1996 (issued pursuant to Section 13304 of the California Water Code) by failing to submit technical reports documenting the nature and extent of pollution in soil and groundwater, as required by Tasks B1 and B5 (*including intermediate Tasks B2, B3, and B4*).

The following facts are the basis for the alleged violation in this matter:

- a. Dillingham failed to submit a Site Assessment Workplan and a Proposal for final remedial actions and cleanup standards in compliance with the requirements of Tasks B1 and B5 of Order 96-114. Tasks B1 and B5 have specified time schedules, and set forth deadlines for submittal of technical documents for investigation and remediation of the former bulk petroleum storage and dispensing facility. The objective of task B1 is to define the lateral and vertical extent of soil and groundwater pollution resulting from operation of the site; and Task B5 requires submittal of a proposal for final remedial actions and cleanup standards.

- b. The Regional Board informed Dillingham by Notice of Violation letters dated June 25, 1997, and October 17, 1997, of its failure to comply with the requirements of the Order 96-114. An initial, original complaint was issued to Dillingham on January 7, 1998. As of the date of this amended complaint, Dillingham has completed Task B1 of the Order. Up to the effective date of the original complaint, Dillingham had been in violation for 456 days for noncompliance with Task B1 and 176 days for non-compliance with Task B5.

PROPOSED CIVIL LIABILITY

5. The maximum civil liability which can be imposed by the Regional Board under Section 13350(f)(1) of the California Water Code is \$1,000 per day. Using the longest period of violation, the 456 day period for Task B1 which extended from October 1, 1996 to December 31, 1997 (the original date of this complaint) the penalty could total \$456,000.
6. As the Discharger has made a significant effort to comply since the receipt of the original complaint, the Executive Officer of the Regional Board proposes that an Administrative Civil Liability be imposed in the amount of \$125,000 which includes \$5,000 of staff costs.
7. Further failure to comply with report submittal dates beyond the date of this complaint or any revision of the amendments thereof may subject the discharger to further administrative civil liability, and/or other appropriate enforcement action(s), including referral to the Attorney General. This complaint applies only to those violations described herein and that occurred prior to December 31, 1997.

WAIVER OF HEARING

Dillingham Construction Corporation may waive their rights to a hearing. If Dillingham wishes to waive the hearing, an authorized person must check and sign the waiver (attached) and return it the Regional Water Quality Control Board, San Francisco Bay Region, 2101 Webster Street, Suite 500, Oakland California 94612, by July 10, 1998. Payment of the administrative civil liability is due within thirty (30) days after an order assessing civil liability is adopted by the Regional Board.

If you have any questions, please contact the Executive Officer at (510) 286-0516.

Date Amended and Issued

Loretta K. Barsamian
Executive Officer

WAIVER
of Amended Complaint No. 98-002
effective dated: _____

☐ By checking the box at the left, I agree to waive my right to a hearing before the Board with regard to the violations alleged in the above Complaint and to remit payment for the civil liability imposed. I understand that I am giving up my right to argue against the allegations made by the Executive Officer in the complaint, and against the imposition of, or the amount of, the civil liability proposed. I further agree to remit payment for the civil liability imposed within 30 days after the Board accepts this waiver.

Date

for Dillingham Construction Corporation